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SECRETARY OF STATE

September 20, 2016

Lisa L DeVona  
Clerk Treasurer  
240 N. Main Street  
Minoa NY 13116

RECEIVED

SEP 26 2016

VILLAGE OF MINOA

**RE: Village of Minoa, Local Law 4 2016, filed on September 19, 2016**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



**Department  
of State**



**MAYOR**  
William F. Brazill



**VILLAGE OF MINOA**  
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Courtney M. Hills, Esq.  
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*Celebrating 100 Years*  
**1913 - 2013**

September 13, 2016

State Records and Law Bureau  
State of New York Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231

**COPY**

Dear Secretary of State:

Enclosed is one (1) original copy of **Local Law #4 for 2016** for the Village of Minoa.

If there are any questions on this law, please contact this office as soon as possible.

Sincerely,

Lisa L. DeVona  
Clerk-Treasurer

Enclosure



# Local Law Filing

41 STATE STREET, ALBANY, NY 12231

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(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

## Village of Minoa

Local Law No. Four (4) of the year 2016.

**A local law implementing New York Village Law §5-530 enabling the Village of Minoa to collect Utility gross receipt tax.**

### SECTION 1. PURPOSE.

The purpose of this local law is to incorporate by adoption of a new local law, the provisions of New York Village Law § 5-530 enabling the Village of Minoa to collect Utility gross receipts tax, such previous adoption having been by ordinance or resolution and not included in the current Village Code as printed and published.

### SECTION 2. ENACTMENT.

A new Article VII of Chapter 143 of the Village of Minoa Code entitled "Utility Tax" is enacted, as follows:

§143-32. Legislative Intent.

The purpose of this Article VII, entitled a Utility Tax Law, is to enable the Village to collect Utility gross receipt taxes.

§143-33. Definitions.

As used in this Article VII, each of the following defined terms shall have the meaning indicated:

Gross Income — Gross Income shall include:

- A. In the case of a Utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village.
- B. In the case of a Utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village.
- C. In the case of any Utility other than described in Subsections A and B hereof, includes:

- (1) Receipts received in or by reason of any sale, conditional or otherwise, except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in Gross Income made or service rendered for ultimate consumption or use by the purchaser in the Village, including cash, credits and property of any kind or nature, whether or not such sale is made or such service is rendered for profit, without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever.
- (2) Profits from the sales of securities.
- (3) Profits from the sale of real property growing out of the ownership or use of or interest in such property.
- (4) Profits from the sale of personal property other than property of a kind which would properly be included in the inventory of a taxpayer if on hand at the close of the period for which a return is made.
- (5) Receipts from interest, dividends and royalties derived from sources within the Village, other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipts thereof.
- (6) Profits from any transaction, except sales for resale and rentals, within the Village whatsoever.

Gross Operating Income — receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone or telegraph service in this state, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever.

Person — persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of rents, any person acting in a fiduciary capacity or any other entity, and persons, their assignees, lessees, trustees or receivers appointed by any court whatsoever or by any other means, except the state, municipalities, political and civil subdivisions of the state or municipality, public districts and corporations and associations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasurer — the treasurer of the Village.

Utility — Utility shall include:

- A. Every person subject to the supervision of the State Department of Public Service, except:

- (1) Persons engaged in the business of operating or leasing sleeping and parlor railroad cars.
  - (2) Persons engaged in the business of operating railroads other than street-surface, rapid-transit, subway and elevated railroads.
  - (3) Omnibus corporations subject to supervision under Article 3-A of the Public Service Law.
- B. Every person, whether or not such person is subject to such supervision, who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigeration, telephone or telegraph service, by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.

Village — the Incorporated Village of Minoa, Onondaga County, New York.

§143-34. Tax Established.

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its Gross Income from and after the first day of June 1, 1969 is hereby imposed:

- A. A tax equal to 1% of the Gross Income of every Utility doing business in the Village which is subject to the supervision of the New York State Department of Public Service, which has an annual Gross Income in excess of \$500, except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law.
- B. A tax equal to 1% of its gross operating every other Utility doing business in the Village which has an annual Gross Operating Income in excess of \$500.

§143-35. Applicability.

This Article and the tax imposed thereby shall:

- A. Apply only within the territorial limits of the Village.
- B. Not apply and the tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village, notwithstanding that some act is necessarily performed with respect to such transactions within such limits.
- C. Be in addition to any and all other taxes.
- D. Apply to all subject income received on and after June 1, 1969.

§143-36. Disposition of Revenues.

All revenues resulting from the imposition of the tax imposed by this Article shall be paid to the Treasurer of the Village and shall be credited to and deposited in the general fund of the Village.

§143-37. Designation of Enforcement Officer; Promulgation of Rules and Regulations.

The Treasurer shall be the chief enforcement officer of this article and shall make and be responsible for all collections hereunder. He or she shall also have the power and authority to make any rules and regulations or directives, not inconsistent with law, which, in his discretion, are reasonably necessary to facilitate the administration of this article and the collection of the taxes imposed hereby. Copies of all such rules and regulations and directives as may from time to time be promulgated shall be sent by registered mail to all utilities subject to this article which register as such with the Treasurer. All such rules, regulations and directives shall be deemed a part of this article.

§143-38. Records.

Every Utility subject to tax under this Article VII shall keep such records of its business and in such form as the Treasurer may require, and such records shall be preserved for a period of three years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.

§143-39. Time of Filing; Contents.

- A. Time of Filing. Every Utility subject to a tax hereunder shall file semiannually, on or before September 25 and March 25, a return for the six calendar months preceding each such return date, and in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Any Utility, whether subject to tax under this Article or not, may be required by the Treasurer to file an annual return.
- B. Filing and Contents. Returns shall be filed with the Treasurer on a form to be furnished by him or her for such purpose and shall show thereon the Gross Income or Gross Operating Income, as the case may be, for the period covered by the return and such other information, data or matter as the Treasurer may require to be included therein. Every return shall have annexed thereto a certification by the head of the Utility making the same or of the owner or of a copartner thereof or of a principal corporate officer to the effect that the statements contained therein are true.

§143-40. Payment Due With Filing.

At the time of filing a return as required by this Article VII, each Utility shall pay to the Treasurer the tax imposed by this Article VII for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

§143-41. Penalty for Nonpayment.

Any Utility failing to file a return or a corrected return or to pay any tax or any portion thereof within the time required by this article, shall be subject to a penalty of 5% of the amount of tax due, plus 1% of such tax for each month of delay or fraction thereof, except the first month after such return was required to be filed or such

tax became due; but the Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§143-42. Tax To Be Treated As Operating Cost.

The tax imposed by this article shall be charged against and be paid by the Utility and shall not be added as a separate item to bills rendered by the Utility to customers or others but shall constitute a part of the operating costs of such Utility.

§143-43. Failure to File or Incorrect Returns.

In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Treasurer, he or she may require at any time a corrected or supplemental return, which shall contain any data that may be specified by him, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him or if no return is made for any period, the Treasurer shall determine the amount due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notification of such determination to the Utility liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the Utility against which it is assessed shall, within one year after giving the notice of such determination, apply to him for a hearing or unless the Treasurer, of his own motion, shall reduce the same. After such hearing, he shall give notice of his decision to the Utility liable for such tax.

§143-44. Review of Final Determination.

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if the proceeding is commenced within 90 days after the giving of notice of such final determination; provided, however, that any such proceeding under said Article 78 shall not be instituted unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law, ordinance or resolution, shall be first deposited and an undertaking filed in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding is dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§143-45. Form Notice.

Any notice authorized or required under the provisions of this Article VII may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this Article VII, or if no return has been filed, then to the address given in the last report of the Utility filed with the Public Service Commission, or if no such report has been filed, to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this Article VII by the giving of notice, shall commence to run from the date of mailing of such notice.

§143-46. Refunds.

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon the request of the Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by § 186-a of the Tax Law is made a lien.

§143-51. Changes in Applicable Law.

With respect to the terms of Gross Income, Gross Operating Income and Utility as defined herein at Section 143-33, in the event of any determination or ruling expanding the scope of, inclusion in or similarly interpreting Gross Income, Gross Operating Income or Utility by any administrative, legislative, judicial or quasi judicial Person(s), agency(ies) or body(ies) having jurisdiction over the foregoing so as to increase or potentially increase or expand the Gross Receipts or Persons to which the tax hereunder may apply, and thus a tax due the Village as a result thereof, then from the effective date of such determination or ruling, the definitions of Gross Income, Gross Operating Income and/or Utility shall be deemed amended to include same. If such determination or ruling is following an appeal, review or similar proceeding, the effective date shall be the date which such appellate or review decision establishes explicitly or otherwise by operation of law, as the effective date upon and from which such provision or provisions shall apply.

§143-52. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court or other person(s) or body having jurisdiction over the parties or subject matter shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

**Section Three (3). EFFECTIVE DATE.**

This Local Law shall take effect upon its filing in the office of the Secretary of State and shall apply to the assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of 2016 of the ~~(County)~~(City)~~(Town)~~(Village) of Minoa was duly passed by the Village Board of Trustees of the Village of Minoa on September 7, 2016 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and was (approved)(not approved)(repassed

\_\_\_\_\_ (Name of Legislative Body) disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, 199\_\_ (Elective Chief Executive Officer\*)

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 199\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_. Such local law was \_\_\_\_\_ (Elective Chief Executive Officer\*)

to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 19\_\_, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 19\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and was (approved)(not approved)(repassed after \_\_\_\_\_ (Name of Legislative Body)

disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_. Such local law was subject to \_\_\_\_\_ (Elective Chief Executive Officer\*)

permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 19\_\_, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 19\_\_, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 19\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 19\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one (1) above.

Lisa DeVona  
Lisa DeVona, Village Clerk-Treasurer

Date: September 13, 2016

(Seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Courtney M. Hills  
Signature  
Courtney M. Hills

Attorney for the Village  
Title  
~~County~~  
City of Minoa  
~~Town~~ Village

Date: September 12, 2016

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.